

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

<p>GARRETT SITTS, et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>DAIRY FARMERS OF AMERICA, INC. and</p> <p>DAIRY MARKETING SERVICES, LLC,</p> <p>Defendants.</p>	<p>Civil Action No. 2:16-cv-00287-cr</p>
---	---

DECLARATION OF ALFRED C. PFEIFFER JR.

I, Alfred C. Pfeiffer Jr., do declare and state as follows:

1. I am a partner with the law firm of Latham & Watkins LLP, which has been retained by Dairy Farmers of America, Inc. and Dairy Marketing Services, LLC (collectively, “DFA”) in connection with this Action. I submit this declaration in support of DFA’s concurrently filed Reply in Support of Emergency Motion to Reconsider.

2. Attached as Exhibit 1 is a true and accurate copy of Ctrs. for Disease Control & Prevention, *Coronavirus Disease 2019 (COVID-19): Cases in the U.S.*, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last updated June 1, 2020).

3. Attached as Exhibit 2 is a true and accurate copy of Max Mitchell, *Masks, Sanitizer and Measuring Tape: What Jury Trials May Look Like Post-COVID*, Legal Intelligencer (May 27, 2020), <https://www.law.com/2020/05/27/masks-sanitizer-and-measuring-tape-what-jury-trials-may-look-like-post-covid/>.

4. Attached as Exhibit 3 is a true and accurate copy of Tracy Leturgey, *How Ashland’s First Jury Trial Amid COVID-19 Pandemic Gained National Attention*, Ashland Source (May 5,

2020), https://www.ashlandsource.com/news/how-ashlands-first-jury-trial-amid-covid-19-pandemic-gained-national-attention/article_88513d4a-8efb-11ea-bd88-6feeb245668c.html.

5. Attached as Exhibit 4 is a true and accurate copy of General Order, *Court Operations and Access During COVID-19 Pandemic* (W.D.N.Y. May 13, 2020), <https://www.nywd.uscourts.gov/sites/nywd/files/COVID-19%20Order%20-%20Court%20Operations%20and%20Access%20During%20COVID-19%20Pandemic%20%282020-05-13%29.pdf>.

6. Attached as Exhibit 5 is a true and accurate copy of Dorothy Atkins, *Cisco, Finjan IP Trial Delayed Until October Due to Pandemic*, Law360 (May 26, 2020), <https://www.law360.com/articles/1276492/cisco-finjan-ip-trial-delayed-until-october-due-to-pandemic>.

7. Attached as Exhibit 6 is a true and accurate copy of Rebecca Davis O'Brien, *Is Anywhere Safe for a Jury Trial During the Covid-19 Pandemic? Try a School Gym*, Wall Street J. (May 19, 2020), <https://www.wsj.com/articles/is-anywhere-safe-for-a-jury-trial-during-the-covid-19-pandemic-try-a-school-gym-11589893201>.

8. Attached as Exhibit 7 is a true and accurate copy of Letter from Chief Judge Jon D. Levy to Members of Maine's Federal Bar (May 22, 2020), <https://www.med.uscourts.gov/opt/sites/default/files/BAR LETTER.pdf>.

9. Attached as Exhibit 8 is a true and accurate copy of the Second Updated Order Regarding Court Operations, *In re COVID-19 (Coronavirus) Pandemic*, No. OE-144 (Mass. May 26, 2020), <https://www.mass.gov/doc/sjc-second-updated-order-re-court-operations-under-the-exigent-circumstances-created-by-covid/download>.

10. Attached as Exhibit 9 is a true and accurate copy of General Order 20-21, *In re Coronavirus Public Emergency* (D. Mass. May 27, 2020), <http://www.mad.uscourts.gov/>

general/pdf/announce/Gen.Order20-21Coronavirus-SecondSupp.OrderConcerningJuryTrialsand
OtherProceedings05272020.pdf.

11. Attached as Exhibit 10 is a true and accurate copy of N.H. Supreme Court, Third Renewed and Amended Order Suspending In-Person Court Proceedings ¶ 6 (May 21, 2020), <https://www.courts.state.nh.us/supreme/orders/5-21-20-Third-Renewed-and-Amended-Order-Suspending-In-Person-Court-Proceedings-Relating%20to-Superior-Court.pdf>.

12. Attached as Exhibit 11 is a true and accurate copy of Andy Hershberger, WMUR9, *NH Courts Postpone Jury Trials Indefinitely* (Apr. 24, 2020), <https://www.wmur.com/article/nh-courts-postpone-jury-trials-indefinitely/32271820>.

13. Attached as Exhibit 12 is a true and accurate copy of Me. Judicial Branch, Revised Emergency Order and Notice from the Maine Supreme Judicial Court (May 28, 2020), <https://www.courts.maine.gov/covid19/pmo-sjc-1.pdf>.

14. Attached as Exhibit 13 is a true and accurate copy of N.Y. Commissioner of Jurors, *Notice from the Commissioner of Jurors re: Coronavirus and Flu*, <http://www.nyjuror.gov/pdfs/Coronavirus-Memo.pdf> (last visited June 2, 2020).

15. Attached as Exhibit 14 is a true and accurate copy of Ct. Judicial Branch, *COVID-19 Information from the Connecticut Judicial Branch*, <https://jud.ct.gov/COVID19.htm> (last updated May 29, 2020).

16. Attached as Exhibit 15 is a true and accurate copy of Ct. Law Tribune Editorial Bd., *The Danger of Disappearing Jury Trials, During and After the Pandemic*, Ct. Law Tribune (May 14, 2020), <https://www.law.com/ctlawtribune/2020/05/14/the-danger-of-disappearing-jury-trials-during-and-after-the-pandemic/>.

17. Attached as Exhibit 16 is a true and accurate copy of General Order, *In re Court Operations Under the Exigent Circumstances Created by COVID-19* (D. Ct. May 19, 2020), http://www.ctd.uscourts.gov/sites/default/files/20-17_COVID-19-General-Order-Re-Jury-Trials.pdf.

18. Attached as Exhibit 17 is a true and accurate copy of Tx. Supreme Court, Seventeenth Emergency Order Regarding the COVID-19 State of Disaster (May 26, 2020), <http://www.txcourts.gov/media/1446702/209071.pdf>.

19. Attached as Exhibit 18 is a true and accurate copy of Angela Morris, *Texas Jury Trials to Resume This Summer Under Experimental Program*, Tx. Lawyer (May 27, 2020), <https://www.law.com/2020/05/27/texas-jury-trials-to-resume-this-summer-under-experimental-program/>.

20. Attached as Exhibit 19 is a true and accurate copy of Calvin Cutler, *Scott Expands Social Gatherings to 25, Opens “Interior Maintenance” Businesses Monday*, WCAX3 (May 29, 2020), <https://www.wcax.com/content/news/Hair-salons-to-reopen-Gov-Scott-expected-to-address-timeline-570859351.html>.

21. Attached as Exhibit 20 is a true and accurate copy of Peter Hirschfeld, *Scott Allows Gyms, Spas to Reopen, and Announces “Pilot Project” for Tourism Industry*, Vt. Public Radio (May 29, 2020), <https://www.vpr.org/post/scott-allows-gyms-spas-reopen-and-announces-pilot-project-tourism-industry>.

22. Attached as Exhibit 21 is a true and accurate copy of Darren Marcy, *Vermont Summer Festival Horse Show Canceled for 2020*, Manchester J. (June 1, 2020), <https://www.manchesterjournal.com/stories/vermont-summer-festival-horse-show-canceled-for-2020,605949>.

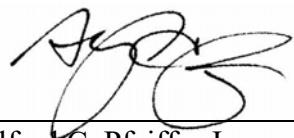
23. Attached as Exhibit 22 is a true and accurate copy of Vt. Agency of Commerce & Cmty. Dev., *Certificate of Compliance*, <https://accd.vermont.gov/sites/accdnew/files/documents/Be%20Smart%2C%20Stay%20Safe%20-%20Certificate%20of%20Compliance.pdf> (last visited June 2, 2020).

24. Attached as Exhibit 23 is a true and accurate copy of Ctrs. for Disease Control & Prevention, *Coronavirus in the United States—Considerations for Travelers*, <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-in-the-us.html> (last updated May 28, 2020).

25. Attached as Exhibit 24 is a true and accurate copy of Cat Viglienzoni, *Vt. Social Gathering Limit to Be Loosened Friday*, WCAX3 (May 27, 2020), <https://www.wcax.com/content/news/Gov-Scott-to-provide-update-on-the-states-COVID-19-response-570795541.html>.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: June 2, 2020



Alfred C. Pfeiffer Jr.
of LATHAM & WATKINS LLP

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2020, I electronically filed with the Clerk of Court the foregoing document using the CM/ECF system and served the below parties via email. The CM/ECF system will provide service of such filing via Notice of Electronic Filing (NEF) to the NEF parties:

Joel G. Beckman, Esq. (jbeckman@nbparis.com)
Gary L. Franklin, Esq. (gfranklin@primmer.com)
William C. Nystrom, Esq. (wnystrom@nbparis.com)
Elizabeth A. Reidy, Esq. (ereidy@nbparis.com)
Dana A. Zakarian, Esq. (dzakarian@nbparis.com)

Dated: June 2, 2020

/s/ Alfred C. Pfeiffer Jr.

Alfred C. Pfeiffer Jr. (admitted *pro hac vice*)
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Telephone: 415-391-0600
Facsimile: 415-395-8095
Email: al.pfeiffer@lw.com